

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

v.

16-CR-3068 JB

JAMES EDWARDS,

Defendant.

DEFENDANT’S PROPOSED VOIR DIRE QUESTIONS

Defendant James Edwards, by his attorneys, Nicole W. Moss and Marshall J. Ray, moves this Court to permit his attorney to conduct voir dire examination in this case, and submits the following proposed voir dire examination, grouped by subject matter. The proposed questions are necessarily general. Follow up questions are essential in each area, depending upon the answers provided, and defense counsel should be permitted to conduct follow up voir dire examination.

A. Appearances

1. First of all: How many of you would agree that things are not always what they appear to be? Who disagrees? Why?

2. How many of you have heard the saying: “you can’t tell a book by its cover?” What does it mean to you?

3. Have any of you made assumptions about people that turned out to be totally false, based on something you heard or saw? Based on a stereotype?

B. Connection to and credibility of law enforcement officers

1. How many of you have worked in, applied to or had training in law enforcement or have a family member or close friend who has worked or trained in law enforcement?

2. Would you give more weight to what a law enforcement officer says because of his or her badge of office than you would to the Defendant or witnesses called by the Defense?

3. How many of you think federal law enforcement agencies rarely make a mistake nowadays? Why? What could cause a law enforcement investigator to accuse the wrong person?

C. Military Service

1. Has anybody on the panel served in the military or had close family or friends that served in the military?

2. Would you give more weight to what a veteran says because of his or her service in the military than you would to a witness that had not served in the military? Why?

D. Right to silence

1. You understand that under the Fifth Amendment, a defendant is not required to take the witness stand. How would you feel if Mr. Edwards did not testify? Would you feel that he was trying to hide something? Would you feel that he must be guilty or else he would want to explain himself? Would you give more weight to the evidence against him, and more likely convict him if he did not take the stand?

2. Why do you think he or his attorneys would choose for him not to testify?

3. Have you ever been in a situation where you chose not to speak, though given the opportunity to do so? What stopped you?

E. Burden of proof

As the Court has instructed you or will instruct you, the burden is on the prosecution to prove beyond a reasonable doubt that Mr. Edwards is guilty; it is not for the defense to prove that Mr. Edwards is innocent.

1. Do any of you have any problem with that fundamental principle of criminal law?
2. Do you think it is important to uphold the law that a person is innocent until proven guilty beyond a reasonable doubt?

F. Reasonable doubt

During this trial the government will present evidence. It is your job, as jurors and the fact finders, to determine what parts of that evidence are facts and whether those facts prove the government's charges beyond a reasonable doubt.

1. If you heard the evidence and felt Mr. Edwards could be guilty, but you weren't convinced beyond a reasonable doubt, is there anyone who could not return a verdict of Not Guilty?

2. Would any of you worry that you had not done your duty as a juror, if you voted Not Guilty because the evidence did not prove the government's case beyond a reasonable doubt?

3. Would any of you hesitate to vote Not Guilty if you found there was not enough evidence to convict, particularly those who feel strongly about allegations of sexual abuse?

4. Shows like Law & Order and C.S.I. permeate the media. Based on these kind of programs, or your personal experience, is there anyone here that has preconceived expectations of the kind of evidence that you would expect at a trial of this nature for the Government to prove its burden?

G. Sexual Abuse

1. This case involves accusation of sexual abuse. Is there anyone here that feels uncomfortable with the subject matter of this case, or that would prefer not to sit on a jury in this type of case? Why?

2. You will hear testimony that contains sexual terminology and descriptions of alleged sexual acts in this trial. Is there anyone here that feels uncomfortable with the use of sexual terminology or this subject matter? Why?

3. There are some crimes that make people so angry that just because a person is accused of the crime, they believe he is guilty. Would you agree with that? Why?

4. What types of crimes can you think of that make you angry?

5. Some people believe that if a person discloses that they have been sexually abused, then the person must be telling the truth. What do you think?

H. False Accusations

1. Have you and someone you know ever been falsely accused of something? Tell me about that experience.

2. False accusation are usually hard to clear up? Why is that?

3. Has someone you know ever told you something that you believed that turned out not to be true?

4. What are some reasons that you can think of that an individual alleging sexual abuse would not tell the truth?

6. How can you tell if an individual is telling the truth or telling a story about something she claims happened to him or her?

7. What are some reasons why an individual would falsely accuse another of sexual abuse?

8. What would you do if an individual falsely accused you of inappropriately touching them?

9. Do you think it would be easy or hard to defend yourself against a false claim that you had raped someone?

11. There has been a great deal of publicity about false allegations of rape. What have you heard or read about those cases and what was your reaction?

12. Some people believe that false accusations of rape can ruin a person's life. What is your reaction to that?

13. Some people believe that there has been an increase in the number of false reports of sex crimes. What is your opinion?

14. Have you heard of any cases in the media where a person was accused of sexual abuse or rape? What was your reaction?

I. Use of Marijuana

1. There will be testimony of Marijuana use by some of the witnesses at trial. Is there anyone here that will pre-judge the evidence or infer guilt of Mr. Edwards because of the mere consumption of Marijuana?

J. Prior Jury Experience

1. Nature of cases? Verdicts? Experience that could influence you as juror in this case?

K. Qualification as Juror/Hardship

1. Is there any reason – personal, financial, physical or philosophical – that any one

can't sit on this case, listen to all the evidence and decide the case fairly and justly on the basis of the evidence presented here in Court?

Respectfully submitted,

/s/ Nicole Moss, Attorney at Law

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CERTIFICATE OF SERVICE

I hereby certify that a copy of this pleading was served as sealed to opposing counsel via the CM/ECF system on this 29th day of June 2017.

/s/ electronically filed

Nicole Moss